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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC300

Notice of Intent to Prepare a Supplemental Draft Environmental Impact Statement on the Effects of Oil and Gas Activities in the Arctic Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Intent to prepare a Supplemental Draft Environmental Impact Statement.

SUMMARY: The National Marine Fisheries Service (NMFS) announces its intent to prepare a Supplemental Draft Environmental Impact Statement (DEIS) that would include an analysis of the environmental impacts of issuing Marine Mammal Protection Act (MMPA) Incidental Take Authorizations (ITAs) to the oil and gas industry for the taking of marine mammals incidental to offshore exploration activities (e.g., seismic surveys and exploratory drilling) in Federal and state waters of the U.S. Chukchi and Beaufort Seas off Alaska. The Department of the Interior's Bureau of Ocean Energy Management (BOEM) and the North Slope Borough are cooperating agencies on this EIS. The Environmental Protection Agency is serving as a consulting agency, and NMFS is coordinating with the Alaska Eskimo Whaling Commission pursuant to our co-management agreement under the MMPA.

DATES: Effective [insert date of publication in the FEDERAL REGISTER].

ADDRESSES: Information on this project can be found on the Office of Protected

Resources webpage at: <http://www.nmfs.noaa.gov/pr/permits/eis/arctic.htm>.

FOR FURTHER INFORMATION CONTACT: Michael Payne, Jolie Harrison, or

Candace Nachman, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101 (a)(5)(A) and (D) of the MMPA (16 USC 1361 et seq.) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of proposed authorization is provided to the public for review. The term “take” under the MMPA means “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.” Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as “any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].”

Authorization for incidental take shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the

mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Summary of 2011 Draft Environmental Impact Statement

On February 8, 2010, NMFS, as lead agency, announced its intent to prepare an EIS analyzing the impacts to the human environment from the issuance of MMPA ITAs for the take of marine mammals incidental to oil and gas industry exploration activities in the U.S. Arctic Ocean and BOEM's proposed action of issuing geological & geophysical (G&G) permits and authorization of ancillary activities in the U.S. Arctic Ocean under the Outer Continental Shelf Lands Act (OCSLA) (75 FR 6175). The 60-day public scoping period ended on April 9, 2010.

On December 30, 2011, NMFS published a Notice of Availability of the Draft EIS in the Federal Register (76 FR 82275). The Draft EIS includes an analysis of the proposed actions identified in the 2010 NOI (i.e., NMFS' issuance of MMPA ITAs for take of marine mammals incidental to G&G surveys, ancillary activities, and exploratory drilling in the Chukchi and Beaufort Seas and BOEM's issuance of G&G permits and authorizations of ancillary activities in the Chukchi and Beaufort Seas), the anticipated environmental impacts, and other measures to minimize the impacts associated with these activities. The 60-day public comment period closed on February 28, 2012.

In light of comments received on the Draft EIS, NMFS and BOEM determined that the Final EIS would benefit from the inclusion of additional alternatives for analysis that cover a broader range of potential levels of exploratory drilling scenarios in the

Beaufort and Chukchi Seas. The alternatives are based upon the agencies' analysis of additional information, including the comments and information submitted by stakeholders during the Draft EIS public comment period. Incorporating these alternatives is intended to facilitate consideration of a broader range of possible future offshore activity, thus addressing comments on the Draft EIS and extending the applicability of the document. Revisions to the document will also incorporate information in response to comments received from the public regarding other issues, such as analysis of potential mitigation measures.

Alternatives

The alternatives analyzed in the 2011 Draft EIS are summarized in the Draft EIS Notice of Availability (76 FR 82275, December 30, 2011). However, as noted previously NMFS and BOEM have concluded that additional activity level scenarios should be considered in a Supplemental Draft EIS. Consistent with the 2011 Draft EIS, the alternatives will assess a reasonable range of G&G, ancillary, and exploratory drilling activities expected to occur, as well as a reasonable range of mitigation measures, in order to accurately assess the potential consequences of issuing ITAs under the MMPA and permits under the OCSLA. Each alternative includes an analysis of a suite of standard and additional mitigation measures that have been identified to help reduce impacts to marine mammals and to ensure no unmitigable adverse impact on the availability of marine mammals for subsistence uses.

The primary difference between the upcoming Supplemental Draft EIS and the 2011 Draft EIS will be in the treatment of alternatives. In particular, NMFS and BOEM will analyze an additional alternative that considers up to four exploratory drilling

programs in the Beaufort Sea and up to four exploratory drilling programs in the Chukchi Sea per year. In the 2011 Draft EIS, the maximum level of exploratory drilling considered in the alternatives was two exploratory drilling programs in the Beaufort Sea and two exploratory drilling programs in the Chukchi Sea per year. Table 1 outlines the activity levels to be considered in each action alternative. Activity levels noted are a maximum for each alternative.

Table 1. Levels of G&G, ancillary, and exploratory drilling activities proposed for consideration in the alternatives in the Supplemental Draft EIS on the Effects of Oil and Gas Activities in the Arctic Ocean. Activity levels noted are a maximum, and any combination up to that amount could be allowed under each alternative.

	2D/3D Seismic Surveys	Site clearance and Shallow Hazards Surveys	On-ice Seismic Surveys	Exploratory Drilling
Alternative 1 (No Action)	0	0	0	0
Alternative 2 (Level 1)	4 in Beaufort 3 in Chukchi	3 in Beaufort 3 in Chukchi	1 in Beaufort 0 in Chukchi	1 in Beaufort 1 in Chukchi
Alternative 3 (Level 2)	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	2 in Beaufort 2 in Chukchi
Alternative 4 (Level 3)	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	4 in Beaufort 4 in Chukchi
Alternative 5 (Level 3 with required time/area closures)	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	4 in Beaufort 4 in Chukchi
Alternative 6 (any level with required use of alternative technologies)	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	Any level up to the maximum, as the technology only relates to seismic surveys

Alternatives 5 and 6 differ from Alternatives 2, 3, and 4 in the fact that each one considers required mitigation measures not contemplated in the other action alternatives. Certain time/area closures considered for mitigation on a case-by-case basis under the other action alternatives would be required under Alternative 5. The time/area closures would be for specific areas important to biological productivity, life history functions for specific species of concern, and subsistence activities. Activities would not be permitted

to occur in any of the time/area closures during the specific identified periods.

Additionally, buffer zones around these time/area closures could potentially be included.

In addition to contemplating the same suite of standard and additional mitigation measures analyzed in the other action alternatives, Alternative 6 also includes specific additional mitigation measures that focus on the use of alternative technologies that have the potential to augment or replace traditional airgun-based seismic exploration activities in the future.

Although NMFS is not soliciting comments and information from the public at this time, the agencies will use the information submitted by the public on the Draft EIS to inform the content and analysis in the Supplemental Draft EIS. The public will then have the opportunity to comment on the Supplemental Draft EIS upon its publication. Additionally, the public will have the opportunity to comment on any applications received under the MMPA as part of this action.

Dated: January 24, 2013.

Helen M. Golde,
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National Marine Fisheries Service.

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